



**REAL ESTATE COMMISSION**  
STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION  
P. O. Box 3469  
Honolulu, Hawaii 96801

**CONDOMINIUM PUBLIC REPORT**

KEALAKEKUA BAY VILLAS

KEALAKEKUA, HAWAII

Registration No. 2543

Issued: November 29, 1991  
Expires: December 29, 1992

**Report Purpose:**

This report is based on information and documents submitted by the developer to the Real Estate Commission as of November 26, 19 91, and is issued by the Commission for informational purposes only. It represents neither approval nor disapproval of the project. Buyers are encouraged to read this report carefully.

**Type of Report:**

- ☐ **PRELIMINARY:**  
(yellow) The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued when complete information is filed.
- ☒ **FINAL:**  
(white) The developer has legally created a condominium and has filed complete information with the Commission.
- ☐ **SUPPLEMENTARY:**  
(pink) Updates information contained in the
- ☐ No prior reports have been issued  
☐ Supersedes all prior public reports  
☐ Must be read together with \_\_\_\_\_
- ☐ Prelim. Public Report dated \_\_\_\_\_  
☐ Final Public Report dated \_\_\_\_\_  
☐ Supp. Public Report dated \_\_\_\_\_
- And ☐ Supersedes all prior public reports  
☐ Must be read together with \_\_\_\_\_
- ☐ This report reactivates the \_\_\_\_\_  
public report(s) which expired on \_\_\_\_\_

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

☒ Required ☐ Not Required - disclosures covered in this report.

Summary of Changes from E:      Public Reports:

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

☒ ] No prior reports have been issued by the Commission.

☐ ] Changes made are as follows:

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*****
*
*                               SPECIAL ATTENTION
*
*   This is CONDOMINIUM PROJECT, not a subdivision. The
*   land area beneath and immediately appurtenant to each
*   unit is designated a LIMITED COMMON ELEMENT and does
*   not represent a legally subdivided lot. The dotted
*   lines in the Condominium Map bounding the designated
*   number of square feet in each limited common element
*   land area are for illustration purposes only and should
*   not be construed to be formal subdivision lines.
*
*   This public report does not constitute approval of the
*   Project by the Real Estate Commission, nor does it ensure
*   that all applicable County codes, ordinances, and
*   subdivision requirements have necessarily been complied
*   with.
*
*   THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW
*   THE CONDOMINIUM DOCUMENTS FOR FURTHER INFORMATION WITH
*   REGARDS TO THE FOREGOING.
*
*****
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## **GENERAL INFORMATION ON CONDOMINIUMS**

A condominium is a special form of real property. To create a condominium in Hawaii, the requirements of Hawaii's "Condominium Property Act" (Chapter 514A, Hawaii Revised Statutes) must be followed.

Some condominium projects are leasehold. This means that the land or the building(s) and other improvements are leased to the buyer. The lease for the land usually requires that at the end of the lease term, the lessees (apartment owner/tenant) deliver their interest in the land to the lessor (fee property owner). The lease also usually requires that the lessees either (1) convey to the lessor the building(s) and other improvements, including any improvements paid for by the lessees; or (2) remove or dispose of the improvements. The leases for individual apartments often require that at the end of the lease term, the lessee deliver to the lessor the apartment, including any improvements placed in the apartment by the lessee.

If you are a typical condominium apartment owner, you will have two kinds of ownership: (1) ownership in your individual apartment; and (2) an undivided interest in the common elements.

Common elements are the areas of the condominium project other than the individual apartments. They are owned jointly by all apartment owners and include the land, either in fee simple or leasehold, and those parts of the building or buildings intended for common use such as foundations, columns, roofs, halls, elevators, and the like. Your undivided interest in the common elements cannot be separated from ownership of your apartment.

In some condominium projects, some common elements are reserved for the exclusive use of the owners of certain apartments. These common elements are called limited common elements and may include parking stalls, patios, lanais, trash chutes, and the like.

You will be entitled to exclusive ownership and possession of your apartment. Condominium apartments may be individually bought, sold, rented, mortgaged, or encumbered, and they may be disposed of by will, gift, or operation of law.

Your apartment will, however, be part of the group of apartments that comprise the condominium project. Study the Declaration, Bylaws, and House Rules. These documents contain important information on the use and occupancy of apartments and the common elements as well as the rules of conduct for owners, tenants, and guests.

### **Operation of the Condominium Project**

The Association of Apartment Owners is the entity through which apartment owners may take action with regard to the administration, management, and operation of the condominium project. Each apartment owner is automatically a member of the Association.

The Board of Directors is the governing body of the Association. Unless you serve as a board member or an officer, or are on a committee appointed by the board, your participation in the administration and operation of the condominium project will in most cases be limited to your right to vote as an apartment owner. The Board of Directors and officers can take certain actions without a vote of the owners. Some of these actions may significantly impact the quality of life for all apartment owners.

Until there is a sufficient number of purchasers of apartments to elect a majority of the Board of Directors, it is likely that the developer will effectively control the affairs of the Association. It is frequently necessary for the developer to do so during the early stages of development and the developer may reserve certain special rights to do so in the Declaration and Bylaws. Prospective buyers should understand that it is vitally important to all apartment owners that the transition from developer to owner control be accomplished in an orderly manner and in a spirit of cooperation.

## SUMMARY OF THE CONDOMINIUM PROJECT

### Interest to be Conveyed to Buyer:

- ☒ Fee simple interest in an apartment and an undivided feehold interest in the common elements.  
☐ Leasehold interest in an apartment and an undivided leasehold interest in the common elements.  
☐ Fee simple interest in an apartment and an undivided leasehold interest in the common elements.

### Types of Project:

1. ☒ New Building(s) ☐ Conversion  
☐ Both New Building(s) and Conversion
2. ☒ Residential ☐ Commercial ☐ Ohana  
☐ Mixed Residential and Commercial ☐ Agricultural  
☐ Other \_\_\_\_\_
3. ☐ High Rise (5 stories or more) ☒ Low Rise
4. ☐ Single or ☒ Multiple Buildings
5. Apartment Description

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
A	4	2/ 2 1/2	1469.86	32
B	3	2/ 2 1/2	1500	32
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 7

*\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.*

*Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.*

### 6. Parking:

	<u>Number of Stalls</u>
Assigned Stalls (Individual Units)	<u>14</u>
Guest Stalls	<u>2</u>
Unassigned Stalls	_____
Extra Stalls Available for Purchase	_____
Other: _____	_____
<b>Total Parking Stalls</b>	<b><u>16</u></b>

### 7. Recreational amenities:

Picnic Area / Barbecue

## I. PEOPLE CONNECTED WITH THE PROJECT

Developer: Brian R. Cook  
Name  
46-025 Alaloa Street  
Business Address  
Kaneche, HI 96744

Phone: 235-7578  
(Business)

Names of officers or general partners of developers who are corporations or partnerships:

n/a  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Real Estate Broker: Kona Alii Realty  
Name  
74-5614 Palani Road, 2nd Floor  
Business Address  
Kailua-Kona, HI 96740

Phone: 329-7021  
(Business)

Escrow: Hawaii Escrow & Title, Inc.  
Name  
75-5722 Kuakini Hwy., Suite 210  
Business Address  
Kailua-Kona, HI 96740

Phone: 329-2763  
(Business)

General Contractor: Ralph C. Royer Construction & Design  
Name  
P.O. Box 1236  
Business Address  
Kailua-Kona, HI 96745

Phone: 322-2200  
(Business)

Condominium Managing Agent: self managed by Homeowners Association  
Name  
\_\_\_\_\_  
Business Address  
\_\_\_\_\_

Phone: \_\_\_\_\_  
(Business)

Attorney for Developer: Robert D. Triantos  
Name  
P.O. Box 1720  
Business Address  
Kailua-Kona, HI 96745

Phone: 329-6464  
(Business)

## II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners.

- A. Declaration of Condominium Property Regime contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

☐ Proposed  
☒ Recorded - Bureau of Conveyances - Document No. 91-126444  
Book \_\_\_\_\_ Page \_\_\_\_\_  
☐ Filed - Land Court - Document No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

- B. Condominium Map (File Plan) shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

☐ Proposed  
☒ Recorded - Bureau of Conveyance Condo Map No. 1555  
☐ Filed - Land Court Condo Map No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

- C. Bylaws of the Association of Apartment Owners govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the way in which meetings will be conducted, and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

☐ Proposed  
☒ Recorded - Bureau of Conveyances - Document No. 91-126445  
Book \_\_\_\_\_ Page \_\_\_\_\_  
☐ Filed - Land Court - Document No. \_\_\_\_\_

Amendment date(s) and recording/filing information:

The Condominium Statute (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

- D. **House Rules.** The Board of Directors may adopt house rules to govern the use and operation of the common elements and individual apartments. House rules may cover matters such as parking regulations, hours of operation for common facilities such as recreation areas, use of lanais, keeping of pets, and occupancy limits. These rules must be followed by owners, tenants, and guests. They do not need to be recorded or filed to be effective. The initial house rules are usually adopted by the developer.

The House Rules for this condominium are:

☒ Proposed                      ☐ Adopted                      ☐ Developer does not plan to adopt house rules.

E. **Changes to Condominium Documents**

Changes to the Declaration, Condominium Map, and Bylaws are effective only if they are duly adopted and recorded and/or filed. Changes to House Rules do not need to be recorded or filed to be effective.

1. **Apartment Owners:** Minimum percentage of common interest which must vote for or give written consent to changes:

	<u>Minimum Set by Law</u>	<u>This Condominium</u>
Declaration (and Condo Map)	75%	<u>75%</u>
Bylaws	65%	<u>65%</u>
House Rules	---	<u>majority of the Board</u>

The percentages for individual condominium projects may be more than the minimum set by law.

2. **Developer:**

☐ No rights have been reserved by the developer to change the Declaration, Condominium Map, Bylaws or House Rules.

☒ Developer has reserved the following rights to change the Declaration, Condominium Map, Bylaws or House Rules

During the sales period, the Developer has reserved the right to make any changes to the Project documents as may be required by law, any title insurance company, and institutional lender or any governmental agency; and prior to the conveyance or transfer of the first apartment, for any reason and in any manner as the developer deems necessary, provided that no such change shall substantially alter or reduce the usable space within the Apartment, render unenforceable the Buyer's mortgage loan commitment, increase the Buyer's share of common expenses or reduce the obligations of the Developer for common expenses for unsold Apartments.



### III. THE CONDOMINIUM PROJECT

**A. Interest to be Conveyed to Buyer:**

- [ X ] Fee Simple: Individual apartments and the common elements which includes the underlying land will be in fee simple.
- [ ] Leasehold or Subleasehold: Individual apartments and the common elements which includes the underlying land will be leasehold.

The leases for the individual apartments and the underlying land usually require that at the end of the lease term, the lessee (tenant) deliver to the lessor (fee property owner) possession of the leased premises and all improvements, including improvements paid for by the lessee.

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

**Lease Term Expires:** \_\_\_\_\_

**Rent Renegotiation Date(s):** \_\_\_\_\_

**Lease Rent Payable:**

<input type="checkbox"/>	<input type="checkbox"/>	Monthly	<input type="checkbox"/>	<input type="checkbox"/>	Quarterly
<input type="checkbox"/>	<input type="checkbox"/>	Semi-Annually	<input type="checkbox"/>	<input type="checkbox"/>	Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  
☐ Month ☐ Year.

- ( ) Individual Apartments in Fee Simple Common Interest in the Underlying Land in Leasehold or Subleasehold:

The leases for the underlying land usually require that at the end of the lease term, the lessee (apartment owners - tenants) deliver to the lessor (fee property owner) their interest in the land and that they either (1) remove or dispose of the building(s) and other improvements; or (2) convey the building(s) and improvements to the lessor, often at a specified price.

Exhibit \_\_\_\_\_ contains further explanations regarding the manner in which the renegotiated lease rents will be calculated and a description of the surrender clause provision(s).

**Lease Term Expires:** \_\_\_\_\_

Rent Renegotiation Date(s): \_\_\_\_\_

**Lease Rent Payable:**    ☐ Monthly                      ☐ Quarterly  
                                     ☐ Semi-Annually          ☐ Annually

Exhibit \_\_\_\_\_ contains a schedule of the lease rent for each apartment per  
☐ Month ☐ Year.

- ( ) Other:

**For Subleaseholds:**

- ☐ Buyer's sublease may be cancelled if the master lease between the sublessor and fee owner is  
☐ Cancelled ☐ Foreclosed
- ☐ As long as the buyer is not in default, the buyer may continue to occupy the apartment and/or land on the same terms contained in the sublease even if the master lease is cancelled or foreclosed.

**B. Underlying Land:**

Address: Kealakekua, Hawaii Tax Map Key: (3) 8-2-003:016  
(TMK)

☐ Address ☐ TMK is expected to change because \_\_\_\_\_

Land Area: 25,875 ☒ square feet ☐ acre(s) Zoning: CN 7.5

Fee Owner: Brian Richard Cook  
Name

46-025 Alaloa Street  
Address

Kaneohe, HI 96744

Sublessor: \_\_\_\_\_  
Name

\_\_\_\_\_  
Address

**C Buildings and Other Improvements:**

1. ☒ New Building(s) ☐ Conversion of Existing Building(s)  
☐ Both New Building(s) and Conversion

2. Buildings: 4 Floors Per Building 2

☒ Exhibit A contains further explanations.

3. **Principal Construction Material:**

☐ Concrete ☒ Hollow Tile ☒ Wood

☐ Other \_\_\_\_\_

4. Permitted Uses by Zoning:

	<u>No. of Apts.</u>	<u>Use Determined By Zoning</u>		<u>No. of Apts.</u>	<u>Use Determined By Zoning</u>
<input type="checkbox"/> Commercial	_____	_____	<input type="checkbox"/> Industrial	_____	_____
<input checked="" type="checkbox"/> Residential	<u>7</u>	<u>Residential/ Neighborhood</u>	<input type="checkbox"/> Agricultural	_____	_____
<input type="checkbox"/> Timeshare/Hotel	_____	<u>Commercial</u>	<input type="checkbox"/> Recreational	_____	_____
<input type="checkbox"/> Other: _____	_____	_____		_____	_____

Is/Are this/these use(s) specifically permitted by the project's declaration or bylaws?

☒ Yes Residential ☒ No Commercial not permitted

5. Special Use Restrictions:

The Declaration, Bylaws, and House Rules may contain restrictions on the use and occupancy of apartments. Restrictions for this condominium project include but are not limited to:

- ☐ Pets: \_\_\_\_\_
- ☐ Number of Occupants: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_
- ☒ There are no special use restrictions.

6. Interior (fill in appropriate numbers):

Elevators 0 Stairways 7 (interior) Trash Chutes 0

<u>Apt. Type</u>	<u>Quantity</u>	<u>BR/Bath</u>	<u>Net Living Area (sf)*</u>	<u>Lanai/Patio (sf)</u>
<u>A</u>	<u>4</u>	<u>2/ 2 1/2</u>	<u>1469.86</u>	<u>32</u>
<u>B</u>	<u>3</u>	<u>2/ 2 1/2</u>	<u>1500</u>	<u>32</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Total Apartments: 7

\*Net Living Area is the floor area of the apartment measured from the interior surface of the apartment perimeter walls.

Other documents and maps may give floor area figures which differ from those above because a different method of determining the floor area may have been used.

**Boundaries of Each Apartment:**

See Exhibit B

**Permitted Alterations to Apartments:**

See Exhibit C

**7. Parking Stalls:**

Total Parking Stalls: 16

	Regular		Compact		Tandem		TOTAL
	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	<u>covered</u>	<u>open</u>	
Assigned (for individual units)			<u>14</u>				<u>14</u>
Guest		<u>2</u>					<u>2</u>
Unassigned							
Extra Available for Purchase							
Other:							
Total							
Covered & Open	<u>2</u>		<u>14</u>		<u>0</u>		

Each apartment will have the exclusive use of at least 2 parking stall(s).  
Buyers are encouraged to find out which stall(s) will be available for their use.

☐ Commercial parking garage permitted in condominium project.

☐ Exhibit \_\_\_\_\_ contains additional information on parking stalls for this condominium project.

**8. Recreational and Other Common Facilities:**

☐ There are no recreational or common facilities.

☐ Swimming pool

☐ Storage Area

☐ Recreation Area

☐ Laundry Area

☐ Tennis Court

☐ Trash Chute

☒ Other: Picnic Area and Barbecue

Trash Enclosure, Phone Gate System

9. Present Condition of Improvements

(For conversions of residential apartments in existence for at least five years):

a. Condition and Expected Useful Life of Structural Components, Mechanical, and Electrical Installations

n/a

b. Compliance With Building Code and Municipal Regulations; Cost to Cure Violations

n/a

10. Conformance to Present Zoning Code

a. ☒ No variances to zoning code have been granted.

☐ Variance(s) to zoning code was/were granted as follows:

b. Conforming/Non-Conforming Uses, Structures, Lot

In general, a non-conforming use, structure, or lot is a use, structure, or lot which was lawful at one time but which does not now conform to present zoning requirements.

	<u>Conforming</u>	<u>Non-Conforming</u>	<u>Illegal</u>
Uses	<u>X</u>	<u>                    </u>	<u>                    </u>
Structures	<u>X</u>	<u>                    </u>	<u>                    </u>
Lot	<u>X</u>	<u>                    </u>	<u>                    </u>

If a variance has been granted or if uses, improvements or lot are either non-conforming or illegal, buyer should consult with county zoning authorities as to possible limitations which may apply.

Limitations may include restrictions on extending, enlarging, or continuing the non-conformity, and restrictions on altering and repairing structures. In some cases, a non-conforming structure that is destroyed or damaged cannot be reconstructed.

The buyer may not be able to obtain financing or insurance if the condominium project has a non-conforming or illegal use, structure, or lot.

**D. Common Elements, Limited Common Elements, Common Interest:**

1. **Common Elements:** Common Elements are those parts of the condominium project intended to be used by all apartment owners. They are owned jointly by all apartment owners.

☒ Exhibit D describes the common elements.

☐ As follows:

2. **Limited Common Elements:** Limited Common Elements are those common elements which are reserved for the exclusive use of the owners of certain apartments.

☐ There are no limited common elements in this project.

☒ The limited common elements and the apartments which may use them are:

☒ described in Exhibit E

☐ as follows:

3. **Common Interest:** Each apartment will have an undivided fractional interest in all of the common elements. This interest is called the "common interest." It is often used to determine each apartment's share of the maintenance fees and other common profits and expenses of the condominium. It may also be used for other purposes, including voting on matters requiring action by apartment owners.

☐ Exhibit \_\_\_\_\_ describes the common interests for each apartment.

☒ As follows:

Apartment 1 - 14.2857%  
Apartment 2 - 14.2857%  
Apartment 3 - 14.2858%  
Apartment 4 - 14.2857%  
Apartment 5 - 14.2857%  
Apartment 6 - 14.2857%  
Apartment 7 - 14.2857%

**E. Encumbrances Against Title:** An encumbrance is a claim against or a liability on the property.

Exhibit F describes the encumbrances against the title contained in the title report dated August 27, 1991 and issued by Hawaii Escrow and Title, Inc.

**Blanket Liens:**

A blanket lien is a mortgage on a condominium project that secures a construction loan. It is usually released on an apartment-by-apartment basis upon payment of specified sums so that individual apartments can be conveyed to buyers free and clear of the lien.

[ ] There are no blanket liens affecting title to the individual apartments.

[ X ] There are blanket liens which may affect title to the individual apartments.

Blanket liens (except for improvement district or utility assessments) must be released before the developer conveys the apartment to a buyer. Buyer's interest will be affected only if the developer defaults prior to conveying the apartment to buyer.

<u>Type of Lien</u>	<u>Effect on Buyer's Interest If Developer Defaults</u>
Mortgage	Buyer's interest may be terminated and Buyer will receive a refund of all deposits.

**F. Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a managing agent to assist the Association in managing the condominium project.

**Initial Managing Agent:** When the developer or the developer's affiliate is the initial managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial managing agent for this condominium is:

[ ] not affiliated with the Developer.

[ ] the Developer or the Developer's affiliate.

[X] self-managed by the Association of Apartment Owners.

[ ] other \_\_\_\_\_

**G. Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, your apartment may be liened and sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided to each apartment.

Exhibit   G   contains a schedule of maintenance fees and maintenance fee disbursements.

**H. Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

☐ Not applicable

☒ Electricity (Common Areas Only)

☐ Television Cable

☐ Gas

☒ Water & Sewer

☒ Other Phone Gate System

**I. Construction Warranties:**

Warranties for individual apartments and the common elements, including the beginning and ending dates for each warranty, are as follows:

**1. Building and Other Improvements:**

Each building is warranted by the general contractor for a period of one (1) year following the first publication of the owner's notice of completion for the structure. In the event that the general contractor's warranty has expired or will expire within sixty (60) days after the date of closing, Developer will give its independent warranty to cover any time period within such sixty (60) days as is not covered by the general contractor's warranty.

**2. Appliances:**

Manufacturer's warranties for appliances and furnishings are assigned to purchaser at closing. There are no Developer's warranties with regard to appliances and furnishings.

NOTE (AS TO 1 AND 2 ABOVE): EXCEPT AS PROVIDED ABOVE, DEVELOPER DISCLAIMS ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, ANY IMPLIED WARRANTY OF WORKMANSHIP AND ANY OTHER EXPRESS OR IMPLIED WARRANTIES, WITH RESPECT TO THE APARTMENTS, THE PROJECT OR THE COMMON ELEMENTS OF THE PROJECT.



**J. Status of Construction and Estimated Completion Date:**

Project under construction, estimated completion date - April 1992

**K. Project Phases:**

The developer ☐ has ☒ has not reserved the right to add to, merge, or phase this condominium.

Summary of Developer's Present Plans for Future Development:

n/a

**L. Sales Documents Filed With the Real Estate Commission:**

Sales documents on file with the Real Estate Commission include but are not limited to:

☒ Notice to Owner Occupants

☒ Specimen Sales Contract

Exhibit H contains a summary of the pertinent provisions of the sales contract.

☒ Escrow Agreement dated September 9, 1991

Exhibit I contains a summary of the pertinent provisions of the escrow contract.

☐ Other \_\_\_\_\_

#### **IV. ADDITIONAL INFORMATION NOT COVERED ABOVE**

None

**Buyer's Right to Cancel Sales Contract:**

**A. Rights Under the Condominium Statute:**

**Preliminary Report:** Sales made by the Developer are not binding on the prospective buyer. Sales made by the Developer may be binding on the Developer unless the Developer clearly states in the sales contract that sales are not binding. A prospective buyer who cancels the sales contract is entitled to a refund of all moneys paid, less any escrow cancellation fee up to \$250.00.

**Supplementary Report to a Preliminary Report:** Same as for Preliminary Report.

**Final Report, Supplementary Report to a Final Report:** Sales made by the Developer are binding if:

1. The Developer delivers to the buyer a copy of:
  - a. Either the Final Public Report OR the Supplementary Public Report which has superseded the Final Public Report;  
**AND**
  - b. Any other public report issued by the Commission prior to the date of delivery, if the report was not previously delivered to the buyer and if the report has not been superseded;
2. The buyer is given an opportunity to read the report(s); and
3. One of the following has occurred:
  - a. The buyer has signed a receipt for the report(s) and waived the right to cancel; or
  - b. Thirty (30) days have passed from the time the report(s) were delivered to the buyer; or
  - c. The apartment is conveyed to the buyer within 30 days from the date the report(s) were delivered to the buyer.

**Material Change:** Binding contracts with the Developer may be rescinded by the buyer if:

1. There is a material change in the condominium which directly, substantially, and adversely affects (a) the use or value of the buyer's apartment or its limited common elements; or (b) the amenities available for buyer's use; and
2. The buyer has not waived the right to rescind.

If the buyer rescinds a binding sales contract because there has been a material change, the buyer is entitled to a full and prompt refund of any moneys the buyer paid.

**B. Rights Under the Sales Contract:**

Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the condominium. These include but are not limited to the:

1. Condominium Public Reports issued by the Hawaii Real Estate Commission.
2. Declaration of Condominium Property Regime and Condominium Map.
3. Bylaws of the Association of Apartment Owners.
4. House Rules.
5. Escrow Agreement.
6. Hawaii's Condominium Law (Chapter 514A, HRS, as amended; Hawaii Administrative Rules, Chapter 16-107 adopted by the Real Estate Commission).
7. Other \_\_\_\_\_

If these documents are not in final form, the buyer should ask to see the most recent draft.

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Law (Chapter 514A, HRS, and Hawaii Administrative Rules, Chapter 16-107) are available at the Department of Commerce and Consumer Affairs, 1010 Richards Street, P. O. Box 541, Honolulu, HI 96809.

This Public Report is a part of Registration No. 2543 filed with the Real Estate Commission on November 1, 1991.

Reproduction of Report. When reproduced, this report must be on:

☐ yellow paper stock

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Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the date of issuance unless a Supplementary Public Report is issued or unless the Commission issues an order extending the effective period for the report.



PETER YANAGAWA Chairman  
REAL ESTATE COMMISSION  
STATE OF HAWAII

**Distribution:**

Bureau of Conveyances

Department of Finance, County of Hawaii

Planning Department, County of Hawaii

Federal Housing Administration

## EXHIBIT A

### DESCRIPTION OF THE BUILDINGS

The Project is hereby divided into the freehold estates described and designated below.

1. Description of the Project. The Project is described in the Condominium Map and consists of four (4) buildings consisting of two stories (no basements) with two-car garage and constructed principally of wood, glass and allied building materials.

2. Description of the Apartments. Seven (7) freehold estates are hereby designated in the spaces within the perimeter walls, doors, windows, floors and ceilings of the four (4) buildings of the Project, which spaces are referred to herein as "apartments" and are designated and located on the Condominium Map and are more particularly described as follows:

a. Apartment 1: This apartment has a net living area of approximately 1,500 square feet and consists of a kitchen, dining area, living room, two and one-half (2½) bathrooms, and two (2) bedrooms, a lanai of 32 square feet, and a two-car garage of approximately 420 square feet. The Apartment has an appurtenant two-car garage.

b. Apartment 2: This Apartment has a net living area of approximately 1,500 square feet and consists of a kitchen, dining area, living room, two and one-half (2½) bathrooms, and two (2) bedrooms, a lanai of 32 square feet, and a two-car garage of approximately 420 square feet. The Apartment has an appurtenant two-car garage.

c. Apartment 3: This Apartment has a net living area of approximately 1,505 square feet and consists of a kitchen, dining area, living room, two and one-half (2½) bathrooms, and two (2) bedrooms, a lanai of 32 square feet, and a two-car garage of approximately 420 square feet. The Apartment has an appurtenant two-car garage.

d. Apartment 4: This Apartment has a net living area of approximately 1,470 square feet and consists of a kitchen, dining area, living room, two and one-half (2½) bathrooms, and two (2) bedrooms, a lanai of 32 square feet, and a two-car garage of approximately 420 square feet. The Apartment has an appurtenant two-car garage.

e. Apartment 5: This Apartment has a net living area of approximately 1,470 square feet and consists of a kitchen, dining area, living room, two and one-half (2½) bathrooms, and two (2) bedrooms, a lanai of 32 square feet, and

a two-car garage of approximately 420 square feet. The Apartment has an appurtenant two-car garage.

f. Apartment 6: This Apartment has a net living area of approximately 1,470 square feet and consists of a kitchen, dining area, living room, two and one-half (2½) bathrooms, and two (2) bedrooms, a lanai of 32 square feet, and a two-car garage of approximately 420 square feet. The Apartment has an appurtenant two-car garage.

g. Apartment 7: This Apartment has a net living area of approximately 1,470 square feet and consists of a kitchen, dining area, living room, two and one-half (2½) bathrooms, and two (2) bedrooms, a lanai of 32 square feet, and a two-car garage of approximately 420 square feet. The Apartment has an appurtenant two-car garage.

The foregoing approximate total square footage areas for the enclosed portions of the respective Apartment types are computed from and to the interior surface of the apartment perimeter walls; and include the areas of all common elements located within the apartments.

**END OF EXHIBIT A**

**EXHIBIT B**

**BOUNDARIES OF EACH APARTMENT**

Each Apartment shall be deemed to include:

(i) the perimeter walls, foundations, columns, girders, beams, floor slabs, footings, supports, roofs or trellises, skylights, ceilings and floors located at or surrounding such Apartment, which are utilized for or serve only such Apartment;

(ii) the walls and partitions within such Apartment;

(iii) the windows, window frames, louvers, shutters, doors and door frames along the perimeter of the Apartment;

(iv) any adjoining garage and any lanai to which such Apartment has direct, exclusive access;

(v) all portions of the structure, inclusive of concrete footings;

(vi) all pipes, shafts, ducts, pumps, conduits, wires and other utility or service lines running through such Apartment which are utilized for and serve only that Apartment;

(vii) all appliances and fixtures installed therein and replacements thereof;

(viii) all mechanical, electrical, heating, incinerating, refrigeration and air conditioning equipment originally installed and utilized for or serving only such Apartment.

**END OF EXHIBIT B**

## EXHIBIT C

### PERMITTED ALTERATIONS TO APARTMENTS

Each Owner of an Apartment shall have the right, without the necessity of the approval of the Board, to alter the Apartment or to change the exterior appearance of their Apartment; provided, that no work which requires a building permit shall be done without a building permit and no work shall be done which is in violation of any applicable code, regulation or ordinance; provided, further, that the exterior of each Apartment shall present a neat, attractive, but not necessarily uniform appearance. The Board may, but is not required to, establish rules regarding permitted colors and finishes for roofs, siding and trim. Any work done in violation of this section shall be removed and the Apartment restored to its former condition at the request of the Board. The Board may establish uniform regulations as to the selection of roofs, siding and trim as shall be aesthetically suitable and appropriate to the design and function of the Project.

END OF EXHIBIT C



## **EXHIBIT D**

### **COMMON ELEMENTS**

One freehold estate is hereby designated in all remaining portions of the Project, herein called the "Common Elements", including specifically but not limited to:

- (1) The Land in fee simple.
- (2) All yards, grounds and landscaping and all refuse facilities, if any, whether within or appurtenant to the Project.
- (3) All roads, parking areas, driveways, loading areas and walkways which are rationally of common use by Owners of more than one Apartment.
- (4) All perimeter walls, foundations, columns, girders, beams, floor slabs, footings, supports, roofs or trellises or other external fascia of the buildings which are utilized for or serve more than one Apartment;
- (5) All ducts, sewer lines, cesspools, electrical equipment, wiring, pipes and other appurtenant transmission facilities over, under and across the Project which are outside of the Apartment or which serve more than one Apartment for services such as power, light, water, gas, sewer, refuse, telephone and radio and television signal distribution.
- (6) Unimproved areas, maintenance and storage areas, mailbox areas and other similar areas which are not part of an Apartment.
- (7) Any and all other apparatus and installations of common use and all other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

**END OF EXHIBIT D**

## EXHIBIT E

### LIMITED COMMON ELEMENTS

Certain parts of the Common Elements, herein called the "Limited Common Elements", are hereby designated, set aside and reserved for the exclusive use of certain Apartments, and such Apartments shall have appurtenant thereto exclusive easements for the use of such Limited Common Elements as set forth herein. The costs and expenses of every description pertaining to the Limited Common Elements, including but not limited to the costs of maintenance, repair, replacement, improvement or additions to the Limited Common Elements shall be charged to the Owner of the Apartment to which the Limited Common Element shall be appurtenant, and if there is more than one Apartment to which the Limited Common Elements shall be appurtenant, then in proportion to the Common Interest appurtenant to each of the respective Apartments except as otherwise provided in this Paragraph.

(1) Any perimeter walls, foundations, columns, girders, beams, floor slabs, footings, supports, roofs or trellises or other external fascia of the buildings which are utilized for or serve more than one Apartment but less than all shall be limited common elements appurtenant to and reserved for the exclusive use of such Apartment utilizing or served by such elements;

(2) Any entrance, exit, gateway, entry, patio, yard, driveway, or steps which would normally be used only for the purposes of ingress to and egress from a specific Apartment shall be a limited common element appurtenant to and reserved for the exclusive use of such Apartment.

(3) All costs and expenses of maintaining the driveways, cesspools or other Limited Common Elements shall be charged to the Owner of the Apartment to which such driveway or other Limited Common Element shall be appurtenant. The Owner of an appurtenant driveway, cesspool or other Limited Common Element shall have the right and the obligation in the first instance to maintain and repair the driveway, cesspool or other Limited Common Element appurtenant to such Owner's Apartment. The Association, upon giving notice to the Owner, may repair or maintain the driveway, cesspool or other Limited Common Element and charge the expense thereof to such Owner.

END OF EXHIBIT E

**EXHIBIT F**

**ENCUMBRANCES AGAINST THE TITLE**

1. Title to all mineral and metallic mines reserved to the State of Hawaii.
2. A Mortgage, to secure an indebtedness of the amount stated herein and any other amounts payable under the terms thereof,  
DATED : June 6, 1991  
AMOUNT : \$1,215,000.00  
MORTGAGOR : BRIAN RICHARD COOK, Husband of Mary Elizabeth Cook, also known as Mary E. Cook  
MORTGAGEE : FINANCE FACTORS, LIMITED, a Hawaii corporation  
RECORDED : June 10, 1991, as Instrument No. 91-074974, in the Bureau of Conveyances. (affects other properties)  
LOAN NO. : None

Said Mortgage, among other provisions, contains a provisions Re: The sale or transfer of all or any portion of lands encumbered by said Mortgage, that all sums secured thereby may become immediately due and payable unless the provisions contained therein are satisfied.

3. EXCEPTING AND RESERVING, HOWEVER, unto the GRANTOR, its successors and assigns, easements for electrical, gas, communications and other utility purposes and for sewer, drainage, and water facilities over, under, along, across and through the granted premises, together with the right to grant to the State of Hawaii, County of Hawaii, Board of Water Supply of the County of Hawaii, or any other appropriate governmental agency or to any public utility or other corporation easements for such purposes, over, under, across, along and through the granted premises under the usual terms and conditions required by the Grantee, its successors and assigns, and in connection with the installations, maintenance or repair of any facilities pursuant to any of said easements the premises shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the condition of the premises immediately prior to the exercises thereof.
4. Real property taxes as may be due and owing. Check with the County Assessor.

**END OF EXHIBIT F**

**EXHIBIT G**

**ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS**

**Estimate of Initial Maintenance Fees:**

Apartment	Monthly Fee X 12 months	=	Yearly Total
1	\$75.71	=	\$908.52
2	\$75.71	=	\$908.52
3	\$75.71	=	\$908.52
4	\$75.71	=	\$908.52
5	\$75.71	=	\$908.52
6	\$75.71	=	\$908.52
7	\$75.71	=	\$908.52

The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency.

## Maintenance Fees and Maintenance Fee Disbursements:

### Estimate of Maintenance Fee Disbursements:

	Monthly X 12 months -	Yearly Total
Utilities and Services		
Air Conditioning		
Electricity		
(X) common elements only	\$40 X 12 =	\$480.00
( ) common elements		
and apartments		
Gas		
Refuse Collection	70 X 12 =	840.00
Telephone		
Water and Sewer	25 X 12 =	300.00
Maintenance, Repairs and Supplies		
Pool		
Building		
Grounds	75 X 12 =	900.00
Pest	25 X 12 =	300.00
Reserves-Long term maintenance	150 X 12 =	1,800.00
Management		
On-site Manager		
Management Fee		
Payroll and Payroll Taxes		
Office Expenses	40 X 12 =	480.00
Insurance	75 X 12 =	900.00
Taxes and Government Assessments (Real Property Taxes)	30 X 12 =	360.00
Audit Fees		
Other		
TOTAL:		\$6,360.00

I/We, Brian R. Cook, as managing agents for the condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

Date: August 23, 1991

Brian R. Cook  
BRIAN R. COOK  
DEVELOPER

END OF EXHIBIT G

## **EXHIBIT H**

### **SUMMARY OF SALES CONTRACT AND RECEIPT**

The unexecuted Sales Contract filed with the Commission, provides for, among other things, a description of the unit to be sold, the purchase price, the time, manner and place of payment, the Purchaser's obligations regarding mortgage financing, Developer's warranties and disclaimers regarding the construction, fixtures and appliances, and the remedies of Developer and of Purchaser in the event of a default under the Contract.

Among other provisions, the specimen Sales Contract and the provisions of Chapter 514A, Hawaii Revised Statutes provide:

i. That said Sales Contract is only a reservation agreement until (i) a true copy of the Final Public Report (with all then issued Supplementary Public Reports, if any) is delivered to the Purchaser, the Purchaser has an opportunity to read the report(s) and executes and gives the Developer a receipt/notice for the report(s) waiving Purchaser's right to cancel, provided that if Purchaser does not execute and return the receipt/notice within thirty (30) days from the date of delivery of the report(s) and receipt/notice, or if Purchaser's Unit is conveyed to Purchaser prior to the expiration of said thirty (30) day period, then Purchaser shall be deemed to have receipted for the report(s) and waived his right to cancel, and if (and only if) there is a material change affecting (i) Purchaser's unit or appurtenant limited common elements, or (ii) amenities of the Project available for Purchaser's use, and Purchaser executes and returns to Developer the written approval or acceptance of material change, provided that if Purchaser does not execute and return such written approval or acceptance of material change within thirty (30) days of delivery of such written approval or acceptance, or if Purchaser's unit is conveyed to Purchaser prior to the expiration of said thirty (30) day period, then Purchaser shall be deemed to have accepted and approved such material change. Until the Sales Contract becomes binding and effective as described above, and in accordance with Chapter 514-A, Hawaii Revised Statutes, the Sales Contract may be unconditionally cancelled at any time by either the Developer or the Purchaser. Upon such cancellation by Developer, Developer shall direct Escrow Agent to refund to Purchaser, without interest earned, all deposits paid by Purchaser; upon cancellation by Purchaser, Developer shall direct Escrow Agent to refund to Purchaser, without interest earned, a full refund of all deposits paid, less any escrow cancellation fee and other costs associated

with the purchase of Purchaser's Unit, up to a maximum of \$250.00.

ii. Developer has made no representations and has not authorized any representations to be made by any sales agent concerning any services or arrangements relating to the rental or sale or management of the Purchaser's Unit.

iii. The Sales Contract is subject to the provisions of the Declaration of Horizontal Property Regime, By-laws, and other condominium documents.

It is incumbent on the Purchaser that he read the full text of the Sales Contract.

**END OF EXHIBIT H**

## EXHIBIT I

### SUMMARY OF EXECUTED ESCROW AGREEMENTS

A copy of the executed Escrow Agreement dated September 9, 1991 between Hawaii Escrow and Title, Inc., as Escrow Agent, and Developer has been filed with the Commission. The Escrow Agreement provides for the deposit of Purchaser's funds pursuant to the Sales Contract and also provides for the retention or disbursement of the funds. The Escrow Agreement provides in part that any interest earned on money on deposit belongs to the Developer. In the event that the Sales Contract and Chapter 514A, Hawaii Revised Statutes entitle a Purchaser to a refund of Purchaser's Deposits held by the Escrow Agent, then Escrow Agent, upon instruction from Developer, will refund Purchaser's deposits, without interest earned and less certain cancellation fees and costs (e.g., escrow cancellation fees, loan processing fees, cost of credit reports, etc.) as provided in the Sales Contract and Chapter 514A, Hawaii Revised Statutes, as amended.

By law the total amount of such cancellation fees shall not exceed Two Hundred Fifty and No/100 Dollars (\$250.00). Under the Escrow Agreement no disbursement of funds can be made to the Developer until the Sales Contract becomes effective under the provisions of Chapter 514A, Hawaii Revised Statutes.

It is incumbent upon a prospective Purchaser to read the executed Escrow Agreement with care.

END OF EXHIBIT I



## KEALAKEKUA BAY VILLAS - DISCLOSURE ABSTRACT

Name and Address of Project: The Kealakekua Bay Villas are situated Southwesterly of Hawaii Belt Road at Kiloa 1 and 2 and Waipunaula, South Kona, Island, County and State of Hawaii

Name, Address and Telephone Number of Owner: BRIAN RICHARD COOK, a married man, whose residence and mailing address is 46-025 Alaloa Street, Kaneohe, Hawaii 96744, and whose telephone number is (808) 235-7578.

Managing Agent: Self managed by the Association of Apartment Owners.

Estimated Annual Maintenance Fees and Monthly Costs for Each Unit: (See attached)

Description of Warranties: Paragraph 11 of the Exhibit A of the Sales Contract and Deposit Receipt states in relevant part:

11. No Warranties. Except for the limited warranty set forth in Paragraph F of the DROA, Seller makes no express warranties. SELLER DISCLAIMS ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE, ANY IMPLIED WARRANTY OR WORKMANSHIP AND ANY OTHER EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE APARTMENT, THE COMMON ELEMENTS OR THE PROJECT. Buyer acknowledges that he has had an opportunity to examine the Apartment, the common elements and the Project and that neither the Seller or its agents, representatives or employees have made any warranties, express or implied, with respect to the Apartment, its quality or grade, or any of the common elements of the Project or anything installed therein, their quality or grade. In particular, Seller disclaims any and all responsibility or liability for any water infiltration, any malfunction, any construction or design defect, or any other problems which Buyer may encounter with respect to the Apartment or the Project.

BUYER FURTHER ACKNOWLEDGES THAT HIS ATTENTION HAS BEEN DIRECTED TO THIS PARAGRAPH 11, THAT HE HAS READ AND UNDERSTANDS SELLER'S DISCLAIMERS OF WARRANTY AND THAT HE EXPRESSLY, KNOWINGLY AND INTELLIGENTLY WAIVES AND RELEASES ANY AND ALL RIGHTS, CLAIMS, ACTIONS OR CAUSES OF ACTION HE NOW HAS OR MAY HAVE IN THE FUTURE ARISING OUT OF, RELATED TO, OR CONNECTED IN ANY WAY WITH, ANY DEFECTS OR DEFICIENCIES IN THE APARTMENT, THE COMMON ELEMENTS OR THE PROJECT.

Usage: The project contains Residential Units. the estimated annual and monthly maintenance fees were prepared as of August 23, 1991, and are hereby certified to have been based on generally accepted accounting principles. THE FIGURES CONTAINED HEREIN ARE ESTIMATES AND ARE NOT INTENDED TO BE AND DO NOT CONSTITUTE ANY REPRESENTATION OR WARRANTY BY OWNER, INCLUDING BUT NOT LIMITED TO ANY REPRESENTATION AS TO THE ACCURACY OF SUCH ESTIMATES.

Please sign this disclosure Abstract and return the copy to us. Your signature acknowledges your receipt of this Disclosure Abstract dated \_\_\_\_\_, 19\_\_\_\_.

DATED: November 25, 1991

Brian R. Cook  
BRIAN RICHARD COOK

UNIT NO. \_\_\_\_\_ Receipt acknowledged this \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_